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RICHARD W. HOLLOWAY, CLERK  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
CJ 09-04566-MEJ  
Dell  
JSS

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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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11 STYGIAN SONGS; BROCKMAN MUSIC;  
12 BRENDA RICHIE PUBLISHING; WB  
13 MUSIC CORP.; UNIVERSAL MUSIC  
14 CORPORATION; GLADYS MUSIC ELVIS  
15 PRESLEY ENTERPRISES LLC; ALMO  
16 MUSIC CORP.; MIGHTY UNDERDOG  
17 MUSIC; SONY/ATV TUNES, LLC and  
18 TURNPIKE TOM,

CV 09

Case No.

4566

COMPLAINT

MEJ

19 Plaintiffs,

20 v.

21 BLUE LAKE RANCHERIA TRIBE; ERIC  
22 RAMOS; THOMAS FRANK; and  
23 LEONARD H. SMITH, individually and d/b/a  
24 KARAOKE MADNESS,

25 Defendants.

1 Plaintiffs, complaining of the Defendants, by ROSEN, BIEN & GALVAN, LLP, their  
2 attorneys, allege:

3 1. This is a suit for copyright infringement under Title 17, U.S.C. Jurisdiction of this  
4 Court is based upon Title 28, U.S.C., § 1338(a).

5 2. Plaintiffs allege eight (8) causes of action for copyright infringement based on the  
6 Defendants' public performances of copyrighted musical compositions. SCHEDULE A annexed  
7 to the Complaint sets forth in summary form the allegations hereinafter made with respect to the  
8 Plaintiffs, their copyrighted musical compositions, and Defendants' acts of infringement.

9 3. Plaintiffs named in Column 2 (all references to columns are to columns in  
10 SCHEDULE A) are the owners of the copyrights in the works listed in Column 3, and are  
11 properly joined in this complaint under Rule 20, Fed. R. Civ. P.

12 4. Upon information and belief, Defendant Blue Lake Rancheria Tribe (the "Tribe")  
13 is a federally recognized Indian Tribe. At the times hereinafter mentioned, the Tribe did and still  
14 does, own, control, manage, operate and maintain a place of business for public entertainment,  
15 accommodation, amusement and refreshment known as Blue Lake Casino, located at 777 Casino  
16 Way, in Blue Lake, in the State of California.

17 5. Upon information and belief, Defendants Eric Ramos and Thomas Frank are  
18 residents of this District and, at all times hereinafter mentioned were and still are President and  
19 Vice-President, respectively, of the Tribe and/or its business entities, and share joint  
20 responsibility for the control, management, operation and maintenance of the affairs of the Tribe,  
21 including the Tribe's operation of the Blue Lake Casino. The acts hereinafter complained of  
22 were done with Defendants Ramos' and Frank's active assistance, cooperation, acquiescence and  
23 procurement, and they derive financial benefit therefrom. In performing the acts complained of  
24 in this complaint, Defendants Ramos and Frank were acting beyond the scope of their authority  
25 as officers of the Tribe and/or its business entities.

26 6. Upon information and belief, Leonard H. Smith, individually and doing business as  
27 "Karaoke Madness," is either resident of, or found in this District and, as more fully alleged  
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1 herein, performed Plaintiffs' copyrighted musical compositions at Blue Lake Casino, which is  
2 located in this District, thereby directly infringing Plaintiffs' copyright rights.

3 7. Musical compositions were and are publicly performed at said place of business.

4 8. The original musical compositions listed in Column 3 were created and written by  
5 the persons named in Column 4.

6 9. The compositions named in causes of action 1 through 7 were published on the  
7 dates stated in Column 5, and since the dates of publication have been printed and published in  
8 strict conformity with Title 17, U.S.C.

9 10. The composition named in cause of action 8 was registered as an unpublished  
10 composition on the date stated in Column 5.

11 11. The Plaintiffs named in each cause of action, including their predecessors in  
12 interest, if any, complied in all respects with Title 17, U.S.C., and secured the exclusive rights  
13 and privileges in and to the copyright of each composition listed in Column 3, and received from  
14 the Register of Copyrights a Certificate of Registration, identified as set forth in Column 6.

15 12. The compositions for which there are entries in Columns 7 and 8 are now in the  
16 renewal term of copyright, secured by due filing of an application for renewal of copyright in the  
17 office of the Register of Copyrights. The Register of Copyrights thereupon issued Certificates of  
18 Registration of the respective claims to the renewal of copyrights in the names of those claimants  
19 listed in Column 7. The dates and identification numbers of such certificates are set forth in  
20 Column 8.

21 13. Defendants on the dates specified in Column 9, and upon information and belief, at  
22 other times prior and subsequent thereto, infringed the copyright in each composition named in  
23 Column 3 by giving public performances of the compositions on Defendants' premises, for the  
24 entertainment and amusement of the patrons attending said premises, and Defendants threaten to  
25 continue such infringing performances.

26 14. The performances of the Plaintiffs' copyrighted musical compositions on the dates  
27 specified in Column 9 on Defendants' premises were unauthorized: neither Defendants, nor any  
28 of the Defendants' agents, servants or employees, nor any performer was licensed by, or

1 otherwise received permission from any Plaintiff or any agent, servant or employee of any  
 2 Plaintiff to give such performances.

3       15. In undertaking the conduct complained of in this action, Defendants knowingly and  
 4 intentionally violated Plaintiffs' rights. Defendants' knowledge and intent are established by the  
 5 following facts:

6           a.     None of the Defendants has obtained either direct permission from the  
 7 Plaintiffs or a license agreement from the American Society of Composers, Authors and  
 8 Publishers (ASCAP), a performing rights licensing organization of which all Plaintiffs are  
 9 members, that would authorize performances of Plaintiffs' or other ASCAP members'  
 10 copyrighted musical works at Blue Lake Casino.

11           b.     Despite numerous letters and other contacts by ASCAP representatives  
 12 informing the Defendants Blue Lake Rancheria Tribe, Eric Ramos and Thomas Frank of their  
 13 liability under the United States Copyright Law, they have allowed entertainers, including  
 14 Defendant Leonard H. Smith, to perform copyrighted music without permission during the hours  
 15 that Blue Lake Casino is open to the public for business and presenting musical entertainment.

16           c.     The many unauthorized performances at Blue Lake Casino include the  
 17 performances of the eight copyrighted musical compositions upon which this action is based.

18       16. At the times of the acts of infringement complained of, the Plaintiff named in each  
 19 cause of action was the owner of the copyright in the composition therein named.

20       17. The said wrongful acts of the Defendants have caused and are causing great injury  
 21 to the Plaintiffs, which damage cannot be accurately computed, and unless this Court restrains  
 22 the Defendants from the further commission of said acts, said Plaintiffs will suffer irreparable  
 23 injury, for all of which the said Plaintiffs are without any adequate remedy at law.

24           WHEREFORE, Plaintiffs pray:

25           1.     That Defendants and all persons acting under the direction, control, permission or  
 26 authority of Defendants be enjoined and restrained permanently from publicly performing the  
 27 aforementioned compositions or any of them and from causing or permitting the said  
 28 compositions to be publicly performed in Defendants' said premises, or in any place owned,

1 controlled or conducted by Defendants, and from aiding or abetting the public performance of  
2 such compositions in any such place or otherwise.

3       2. That Defendants Eric Ramos and Thomas Frank be decreed to pay such statutory  
4 damages as to the Court shall appear just, as specified in 17 U.S.C. § 504(c)(1), namely, not  
5 more than Thirty Thousand Dollars (\$30,000) nor less than Seven Hundred And Fifty Dollars  
6 (\$750) in each cause of action herein.

7       3. That Defendants Eric Ramos and Thomas Frank be decreed to pay the costs of this  
8 action and that a reasonable attorney's fee be allowed as part of the costs.

9       4. For such other and further relief as may be just and equitable.

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11 Dated: September 28, 2009

Respectfully submitted

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ROSEN, BIEN & GALVAN, LLP

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By:   
GAV CROSTHWAIT GRUNFELD  
Attorneys for Plaintiffs

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1 Cause of Action	2 Plaintiff	3 Musical Composition	4 Writers	5 Date of Publication	6 Certificate of Registration Number	7 Renewal Certificate Number	8 Date of Known Infringe- ment	9 Columns 2
1.	STYGGIAN SONGS	BABE	DENNIS DE YOUNG	9/17/79	PA 62-207		5/1/08	
2.	BRICKMAN MUSIC AND BRENDA RICHIE PUBLISHING	HELLO	LIONEL RICHIE	10/14/83	PA 192-542		5/1/08	
3.	WB MUSIC CORP., UNIVERSAL MUSIC CORPORATION	MIDNIGHT IN MONTGOMERY	ALAN JACKSON DON SAMPSON	5/15/91	PA 533-553		5/1/08	
4.	GLADYS MUSIC ELVIS PRESLEY ENTERPRISES LLC	(LET ME BE YOUR) TEDDY BEAR	KAL MANN BERNIE LOWE	6/6/57	EP 109503	KAL MANN, AS "AUTHOR AND COMPOSER", RE 233-752	1/16/85 5/1/08	
5.	ALMO MUSIC CORP.	MONEY FOR NOTHING	MARK KNOPFLER AND GORDON SUMNER A/K/A STING	5/13/85	PA 251-644		5/1/08	
6.	MIGHTY UNDERDOG MUSIC, SONY/ATV TUNES, LLC	BEFORE HE CHEATS	JOSH KEAR, CHRIS TOMPKINS	11/15/05	PA 1-345-125		5/1/08	
7.	UNIVERSAL MUSIC CORPORATION	CAN'T GET YOU OUT OF MY HEAD	CATHY DENNIS, BOB DAVIS	10/1/01	PA 1-076-919		5/1/08	

Columns 1	2	3	4	5	6	7	8
Action	Plaintiff	Musical Composition	Writers	Date of Publication	Certificate of Registration Number	Renewal Certificate Date and Number	
8.	TURNPIKE TURN YOU NEVER EVEN CALL ME BY MY NAME	STEVE GOODMAN	REGISTERED AS UNPUBLISHED NANCY GOODMAN-TENNEY 10/8/71 EU 28639	"AS WIDOW OF DECEASED AUTHOR, STEVE GOODMAN," JESSE, SARAH AND ROSANNA GOODMAN, "AS CHILDREN OF DECEASED AUTHOR, STEVE GOODMAN"	1/1 RE		